

REMARKS

Following amendment, claims 1-24 will be pending in this application. Claims 1-12 and 15-18 are currently amended, and new claims 19-24 are added. Support for the amendments and new claims can be found throughout the specification and claims as filed. No new matter has been added.

The amendments to the specification insert sequence identifiers for sequences recited in the specification and drawings. The replacement Sequence Listing has been prepared from sequences contained in the application as originally filed and, as such, contains no new matter.

Restriction

Responsive to the action mailed May 15, 2008, applicants elect Group I, claims 1-5 and 16-24 (including new claims 19-24), with traverse.

The action alleges that Marsh et al. teach a sequence that comprises a sequence that is 100% identical to the sequence of oligonucleotide recited as SEQ ID NO: 1 in original claim 5 and concludes that Group I (isolated nucleotides and kits) does not share the same corresponding special technical features as Groups II to V. Applicants traverse on the ground that Marsh et al. does not teach or suggest any special technical feature shared by the claims. Further, applicants submit that it would not be an undue burden to examine all of the claims, because they are drawn to related products and processes using those products.

Marsh et al. (Genomics, 58:310-312, 1999) does not teach or suggest a special technical feature of the claims. The claims, as presently amended, relate to oligonucleotides consisting of a sequence that is complementary to a specific region of an allele of a thymidylate synthase promoter, and hybridizes to that region under highly stringent conditions. Optionally, the oligonucleotides will hybridize to a different allele of the thymidylate synthase promoter region, but only under less stringent conditions. This hybridization difference permits one to determine which allele is present. The claims also relate to kits that comprise such oligonucleotides and methods utilizing such oligonucleotides. Marsh et al. does not teach or suggest the oligonucleotides recited in amended claim 1, because the sequences described in Marsh et al.

comprise sequences in addition to those recited in the claims. Further, Marsh et al. does not teach or suggest the kits recited in claim 16, because Marsh et al. does not teach or suggest a kit containing two oligonucleotides that hybridize to adjacent sites in the promoter region. Also, Marsh et al. does not teach or suggest the oligonucleotides recited in claim 21, because Marsh et al. does not teach or suggest oligonucleotides comprising a fluorescent label.

Because Marsh et al. does not teach or suggest a special technical feature of the claims, and because there would not be an undue burden to examine the claims together, applicants respectfully request reconsideration and withdrawal of the requirement for restriction.

The fees in the amount of \$620.00 for excess claims and \$120.00 for Petition for Extension of Time are being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Apply any other charges or credits to Deposit Account No. 06-1050, referencing attorney docket no. 18201-003US1.

Respectfully submitted,

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